

Judge Legrome D. Davis

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Courtroom and Criminal Deputy: Marcella El-Shabazz; 267-299-7659

Preliminary Matters

1. Correspondence with the Court: All communication with the judicial chambers shall occur by letter or formal motion. Judge Davis does not wish to receive copies of correspondence between counsel. Letters to the Court are permitted only if they pertain exclusively to administrative and/or scheduling matters. For parties represented by counsel, communication shall be made only by those attorneys who have entered an appearance and who are identified on the docket sheet.

All other written communications with the Court concerning any case assigned to the Court's calendar shall be by the filing of a pleading, motion, application, brief, legal memorandum, or other similar filing permitted by the Federal Rules of Civil or Criminal Procedure or the Local Rules of Civil or Criminal Procedure.

2. Communication with Law Clerks: All questions concerning matters on Judge Davis' docket should be directed to Carol Sampson, the Civil Deputy, or Marcella El-Shabazz, the Criminal Deputy. Communication with law clerks is not permitted.

3. Telephone Conferences: On occasion, Judge Davis uses telephone conferences for non-complex pretrial conferences, scheduling changes, extensions of time and similar matters. To the extent that they occur, discovery disputes are frequently resolved through an immediate telephone conference.

As a general matter, telephone conferences will be permitted only after the Rule 16 conference or the initial appearance before the Court. Counsel desiring to schedule a telephone conference should contact Judge Davis' chambers by letter and advise the court of the reason for the request. Counsel have the responsibility to initiate the telephone conference and to contact Judge Davis through his Chambers Deputy after all parties are on the call.

4. Oral Arguments and Evidentiary Hearings: Judge Davis does not reserve specific days or times for oral arguments or evidentiary hearings. Oral arguments on pending motions will usually be granted upon written request.

5. Pro Hac Vice Admissions: Counsel not admitted to practice in the Eastern District of Pennsylvania must be sponsored for pro hac vice by a member of the bar of this Court. Strict compliance with Rule 83.52(b) of the Local Rules of Civil Procedure for the United States District Court for the Eastern District Pennsylvania is required.

6. Consultation With Opposing Counsel: While Judge Davis believes that the active participation of the Court in the pretrial process is an important factor in the prompt, efficient and fair resolution of disputes, it is expected that counsel will bring matters to his attention only after they have been discussed with opposing counsel. Moreover, the judge believes discovery to be a process in which counsel secures, in a timely and cooperative manner, information legally relevant to the fair resolution of a dispute; it is not a vehicle for securing an unfair tactical advantage.

7. Confidentiality Agreements: Parties may agree privately to keep documents and information confidential. The Court may enter an Order of Confidentiality only after making a specific finding of good cause based on a particularized showing that the parties' privacy interests outweigh the public's right to obtain information concerning judicial proceedings.

8. Injunctions: Judge Davis usually conducts a conference with counsel before scheduling hearings for temporary restraining orders and injunctive relief.

Judge Davis requires the submission of proposed findings of fact and conclusions of law for TRO and injunction hearings. The schedule for document submission will be set at the initial conference.

9. Briefs of Cases Appealed: Judge Davis welcomes copies of appellate briefs upon appeal of a decision he has entered.

Conferences

1. Rule 16 Conferences: Judge Davis schedules an initial Rule 16 conference within forty days of the filing of the answer. Rule 16 conferences are normally held in chambers, but sometimes are conducted on the record in open court. The Chambers Deputy schedules the initial pretrial conference.

At least three business days prior to the initial Rule 16 conference, counsel must submit a completed Scheduling Information Report. The Court's processes and procedures rely upon the good faith of counsel and the diligent compliance with Rule 26(f). The Rule 26(f) meeting shall take place as soon as possible, and at least ten days prior to the Rule 16 conference.

The attendance of lead counsel at the Rule 16 Conference is required; attendance by telephone is not permitted. If lead counsel is unavailable, upon request in writing made to the Court, substitute counsel may appear at the Rule 16 Conference. All counsel attending the Rule

16 Conference are expected to be fully conversant with the factual background of, and the legal issues involved in, the action.

Topics addressed at the initial Rule 16 Conference frequently include those listed in Local Rule 16.1 (b), Federal Rule of Civil Procedure 16(b) and (c) and the status of self-executing disclosures under Federal Rule of Civil Procedure 26(a). Counsel participating in Rule 16 Conferences shall be prepared to address these concerns and are expected to have authority from their clients to address settlement. In complex cases, counsel may be requested to prepare an agenda for the Rule 16 Conference. Following the Rule 16 Conference, the Court will enter a scheduling order which sets firm dates for the completion of discovery, the exchange of expert reports, and the filing of dispositive motions.

Judge Davis does not normally conduct further discovery conferences. The Court expects discovery to be voluntary and cooperative in accordance with the Federal Rules of Civil Procedure. To the extent that discovery disputes cannot be adequately resolved by counsel, the Court utilizes prompt telephone conferences to resolve these disputes.

Additional pretrial conferences will be scheduled by the Court as necessary. Counsel should request a supplemental conference when appropriate.

2. Settlement Conferences: Judge Davis works with Magistrate Judge Diane Welsh. Settlement conferences on matters assigned to Judge Davis typically occur before Judge Welsh. Requests for settlement conferences should be presented in writing to Judge Davis, and only upon the existence of a reasonable belief by both parties that the case might be resolved at a settlement conference. Depending upon the particulars of a case, a settlement conference might occur at the inception of the case, after the completion of discovery or after the resolution of dispositive motions. Counsel's views as to the most opportune time for a settlement conference will be solicited at the Rule 16 Conference.

3. Final Pretrial Conferences: Judge Davis typically holds a final pretrial conference sometime during the month prior to the anticipated trial date. A firm trial date (at least two weeks in the future) will be established at the final pretrial conference. Counsel should therefore be familiar with the schedules of all necessary witnesses and parties. Settlement and trial procedure will also be addressed at the final pretrial conference.

Final pretrial memoranda must be received by the court at least three business days before the final pretrial conference. In accordance with Local Rule of Civil Procedure 16.1(c), the pretrial memoranda shall also be filed with the Clerk of Court. In addition to compliance with Local Rule of Civil Procedure 16.1(c), the pretrial memoranda shall include the following:

- a. the identity of each expert witness the party anticipates calling at trial;
- b. a curriculum vitae for each expert witness;

c. the identity of each fact witness to be called in the party's case-in-chief and a brief statement of the nature of the witness' expected testimony;

d. an itemized statement of the claimant's damages or relief sought;

e. A statement of any anticipated important legal issues on which the Court will be required to rule, accompanied by the best single authority on any such issue.

One copy of each pretrial memorandum shall be filed with the Clerk of Court and two copies shall be sent to Judge Davis' chambers.

Motions in limine must be submitted at least seven days prior to the trial date, and will be resolved prior to the commencement of trial.

Motions Practices and Procedures

1. Oral Argument: Oral argument on motions is usually granted upon written request. Request for oral argument should be made in writing at the time of the filing of a motion or a reply as a part of the moving papers.

2. Page Limitations and Page Numbering: Original motions and responses are limited to twenty-five pages each, excluding exhibits. All motions, responses, briefs or memoranda shall be submitted on numbered pages.

3. Reply and Surreply Briefs: Reply and surreply briefs may be filed only with leave of the Court. Generally, they will be permitted only when necessary to rebut an issue or factual assertion not covered by the party's original submission. Counsel should file a motion requesting leave to file an additional document, attaching the proposed reply or surreply as an exhibit. When permitted, reply and surreply briefs are limited to ten pages each.

4. Citations to the Record and Exhibits: Every factual assertion contained in a brief or memorandum must be supported by a specific page citation to the record. All exhibits shall be individually labeled and identified, and exhibits that contain multiple pages shall be numbered.

5. Chambers Copies of Motions: Judge Davis requests that parties send to chambers by mail a single courtesy copy of all motions and exhibits.

6. Rule 56 Motions: Upon any motion for summary judgment pursuant to Federal Rule of Civil Procedure 56, counsel shall also submit, in numbered paragraphs, a separate, concise and explicit statement of the material facts as to which the moving party contends no genuine issue exists.

The brief in opposition to a summary judgment motion shall include a separate, concise and explicit statement of the material facts, in numbered paragraphs, responding to the numbered paragraphs required of the movant in the above paragraph, as to which it is contended genuine issues exist.

Statements of material facts in support of, or in opposition to, a summary judgment motion shall include citations to the record in support of the party's contentions.

All material facts set forth in the statement required to be served by the moving party may be taken by the Court as admitted unless challenged, with a specific citation to the record, by the opposing party.

Trial Practices and Procedure

1. Voir Dire, Final Jury Instructions and Jury Interrogatories: It is expected that counsel will work cooperatively and submit joint proposed voir dire questions, jury instructions on substantive issues and proposed special interrogatories or verdict forms. In the event that counsel cannot agree upon the substantive jury instructions or the verdict forms or interrogatories, each counsel shall submit a proposed instruction or interrogatory on the points in dispute. Citations to relevant case law or pattern jury instructions should be included.

Counsel shall submit two copies of the joint and/or individual submissions to Judge Davis' chambers at least three days prior to the commencement of trial. The parties should also submit a computer diskette containing their instructions or verdict form in WordPerfect 9.0 or 10.0 for Windows format. Each proposed jury instruction should be double-spaced on a single piece of paper. Jury instructions need only be submitted with respect to substantive issues in the case. Proposed instructions on procedural matters such as the burden of proof and credibility are not required. Judge Davis may accept supplemental jury instructions until the start of closing argument.

2. Trial Exhibits: All exhibits shall be marked and exchanged among counsel prior to trial. Two bound copies of trial exhibits shall be provided to the Court as soon as practicable, but in no event later than the commencement of trial. In addition, each party is required to provide a schedule of its exhibits. At the conclusion of the trial, original exhibits will be returned to the proponent.

3. Cases involving Out-of-Town Witnesses or Parties: Trial scheduling will not substantially change merely because of the involvement of out-of-town witnesses. Counsel are expected to control the availability of their witnesses.

4. Voir Dire: Judge Davis conducts voir dire and asks a standard set of voir dire questions. Parties should file proposed voir dire questions consistent with the schedule established at the final pretrial conference.

5. Expert Witnesses: Counsel are required to identify expert witnesses and provide the curriculum vitae for their experts. Counsel are also expected to voluntarily exchange expert reports, and to conduct interrogatories and depositions in accordance with the dates outlined in the Court's scheduling orders. See Fed. R. Civ. P. 26(a)(2)(B). Except for good cause, expert testimony will be limited at trial to the information provided.

6. Opening and Closing Statements: The agreement of counsel on the time limits for opening statements and summations is appreciated. Judge Davis believes twenty minutes to be sufficient to comprehensively outline a party's anticipated proofs in an opening statement. Thirty to forty-five minutes is usually sufficient for a party to adequately present a closing argument.

7. Questioning of Witnesses: As Judge Davis uses the electronic sound recording system, all examinations of witnesses must be conducted from counsel table or the lectern.

8. Examination of Witnesses or Argument by More than One Attorney: More than one attorney for a party may examine different witnesses or present argument on different issues before the factfinder. Multiple attorneys for the same party may not examine the same witness or present argument on the same point.

9. Videotaped Testimony: Counsel should videotape the testimony of witnesses unavailable to testify before the jury consistent with the schedule established at the final pretrial conference. As a general matter, the Court is not inclined to delay a trial, or to recess prematurely, merely because a witness' personal or professional schedule does not allow his or her presence at the most opportune time for counsel.

Videotaped testimony should begin with the witness being sworn. Counsel are expected to provide the Court with a transcript of the witness' testimony in advance of the tape being offered. Objections must also be given to the Court in advance of the tape being offered into evidence. The Court will rule on all objections well in advance of the submission of the videotaped testimony to the jury. As a general matter, Judge Davis believes the resolution of legal issues should not delay the presentation of evidence to the jury.

10. Judge Davis permits the jury to take most exhibits admitted into evidence into the deliberation room. A discussion with counsel will occur before any exhibit is sent out with the jury.

11. Notetaking by Jurors: Judge Davis permits jurors to take notes and will issue an instruction on juror notetaking. See United States v. MacLean, 578 F.2d 64 (3d Cir. 1978).

12. Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings: Rule 50 Motions should be in writing. Oral argument, if necessary, will be scheduled by the Court.

13. Availability of Counsel During Jury Deliberations: Unless excused by the Court, counsel must remain in the courthouse during jury deliberations.

14. Polling the Jury: All requests to poll the jury will be granted.

15. Bench Trials: Judge Davis requires the submission of proposed findings of fact and conclusions of law in non-jury cases. The schedule for the submission of the proposed findings of fact and conclusions of law is set at the conclusion of the bench trial, and is typically no more than two to three weeks. Two copies of the proposed findings and conclusions should be submitted and shall be accompanied by a computer diskette in WordPerfect 9.0 or 10.0 for Windows format.

Counsel are expected to submit trial memoranda in bench trials. The memoranda must be received by the court, and filed with the Clerk of Court, at least three days prior to the commencement of trial. Exhibit notebooks should be provided at the commencement of trial, at the latest.

Criminal Cases

1. Motions to Suppress: Hearings on motions to suppress are usually conducted separate from, and in advance of, the trial date. Following the hearing on the motion to suppress, counsel will be expected to submit proposed findings of fact and conclusions of law to the court. A schedule for these submissions will be established at the conclusion of the motion to suppress hearing.

2. Trial Dates: Trial dates are assigned by the Courtroom Deputy.

3. Pretrial Conferences: Judge Davis generally will hold a final pretrial conference two weeks before the trial date.

4. Motions in Limine: It is generally expected that all disputed evidentiary matters will be brought to the attention of the Court well in advance of the trial. Motions in limine should be filed at least seven days prior the trial date.

5. Proposed Voir Dire and Proposed Final Jury Instructions: Written proposed voir dire and final instructions must be provided to the Court at least three business days prior to the trial date. Proposed instructions on procedural matters such as the burden of proof, presumption of innocence and the credibility of witnesses are not required. Instructions need only be submitted with respect to the substantive issues in the case. Each proposed instruction shall be on a separate piece of paper, double spaced and must include citation to specific authority.

Counsel will have the opportunity to submit supplemental points following the

conclusion of the testimony.

6. Voir Dire: Judge Davis conducts voir dire in all criminal matters.

7. Written Jury Instructions: Judge Davis normally provides the jury with a copy of the instructions.

8. Exhibits in the Jury Room: Judge Davis usually permits all trial exhibits to go out with the jury unless a well-founded objection is raised.

9. Availability of Counsel During Deliberations: Unless excused by Judge Davis, counsel must remain in the courthouse during deliberations.

10. Sentencing Memoranda: Judge Davis requires the timely submission of objections to the Presentence Investigation Report. Judge Davis also encourages the submission of sentencing memoranda by both the defendant and the government.